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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/299,965	04/26/1999	??	54570USA3A	3907

7590

11/19/2002

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EXAMINER

GALLAGHER, JOHN J

ART UNIT

PAPER NUMBER

1733

13

DATE MAILED: 11/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/29996

Applicant(s)

mk-13

Examiner

Group Art Unit

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-14 and 16-26 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☒ Claim(s) 15, 17-18 and 20 is/are allowed.
- ☒ Claim(s) 1-13, 16, 19 and 21-26 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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1. Applicants' (Preliminary) Amendment, filed 16 October 2002, has been received and made of record.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 13, 16, 19 and 21-26 are rejected under 35 U.S.C. § 102(b) as being (clearly) anticipated by Cohen.

Cohen discloses a mechanical fastener composed of two (web member) parts and an interposed slow curing epoxy resin adhesive therebetween; in one embodiment, the adhesive employed is of the two component variety, with one component (viz. resin or curing catalyst) applied to each of the fastener parts, while in another embodiment, a one part adhesive (viz. resin AND catalyst combination) is applied to both of the fastener parts (i.e. both parts comprise a curable material). The fastener (parts) may be separated (viz. to allow for repositioning and/or re-alignment) up until the time that the (again, slow curing) adhesive has substantially cured; however, once cured, the parts become permanently joined/secured/bonded. (Figs. 1-4, Abstract, column 1 lines 6-12 and 44-68, column 2 line 1 thru column 3 line

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3 (and N.B. column 2 lines 8-9, 30-34, 47-51 and 62, and also N.B. column 3 lines 1-3)). All of the essential limitations of these claims are seen to be satisfied by this reference. Further regarding claim 5, the epoxy resin adhesive employed by this patentee is seen to constitute a "functionalized thermoplastic" viz. this resin contains epoxy functionality/functional groups and remains thermoplastic until cured.

4. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cohen. The use of the epoxy resin adhesive of this patentee in combination or conjunction with a compatible thermoplastic resin component (this component providing any one of a number of functional or utilitarian properties or characteristics) is seen to be (a) well within the purview of (i.e. obvious to) those of ordinary skill in this art; and (b) apparently consistent and in agreement with applicants'

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specification at page 19 line 5 thru page 20 line 24 of applicants' specification.

6. Claims 6-12 are further rejected under 35 U.S.C. § 103(a) as being unpatentable over Cohen in view of Flynn.

Flynn discloses that it is indeed known and conventional to include a thermoplastic (e.g. polyolefin) resin in an epoxy resin composition, which thermoplastic constitutes a "usual modifier". (Abstract, column 1 lines 12-16, column 4 line 36 thru column 6 line 68, N.B. column 7 lines 3-24 and especially lines 11-12). This reference is specifically applied for the sake of exposition and completeness, and to support the contention made by the Examiner along this line at the end of paragraph 5, above.

7. In spite of the foregoing rejections, the Examiner feels that there is patentable subject matter present in this application at this point in the prosecution, and therefore claims 14, 17-18 and 20 are indicated as being allowable, with the caveat that yet another updated search may uncover art more pertinent than that already applied.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. J. Gallagher whose telephone number is (703) 308-1971. The examiner can normally be reached on M-F from approximately 8:30 A.M. to 5 P.M. The examiner can also be reached on alternate N/A.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball, can be reached on (703) 308-2058. The fax phone number for this Group is (703) ~~305-3599~~ <sup>872-9310</sup>

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661/0662.

  
JJGallagher:cdc

November 4, 2002



JOHN J. GALLAGHER  
PRIMARY EXAMINER  
ART UNIT 131/733